

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-5031

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

LEONARD W. CHEATHAM,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, District Judge. (CR-02-329; CA-04-397-3)

Submitted: April 8, 2005

Decided: April 27, 2005

Before LUTTIG, MICHAEL, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Leonard W. Cheatham, Appellant Pro Se. Stephen Wiley Miller, Roderick Charles Young, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Leonard W. Cheatham, a federal prisoner, seeks to appeal the district court orders denying his 28 U.S.C. § 2255 (2000) motion and his subsequent Fed. R. Civ. P. 59(e) motion to reconsider. An appeal may not be taken from the final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Cheatham has not made the requisite showing as to either order. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED